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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151210999-6081-01]

RIN 0648- BF59

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 27

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement measures included in Framework Adjustment 27 to the Atlantic Sea Scallop Fishery Management Plan, which the New England Fishery Management Council adopted and submitted to NMFS for approval. The purpose of Framework 27 is to prevent overfishing, improve yield-per-recruit, and improve the overall management of the Atlantic sea scallop fishery. Framework 27 would: Set specifications for the scallop fishery for fishing year 2016, including days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations; create a new rotational closed area south of Closed Area II to protect small scallops; and open the northern portion of the Nantucket Lightship Access Area to the Limited Access General Category fleet and transfer 19 percent of the Limited Access General Category access area trips from the Mid-Atlantic Access Area to the northern portion of the Nantucket Lightship Access Area.

DATES: Comments must be received by *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: The Council is developing an environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. The Council submitted a decision draft of the framework to NMFS that includes the draft EA, a description of the Council's preferred alternative, the Council's rationale for selecting each alternative, and an Initial Regulatory Flexibility Analysis (IRFA). Copies of the decision draft of the framework, the draft EA, and the IRFA, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA-NMFS-2015-0164, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0164*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Scallop Framework 27 Proposed Rule."

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments

received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978-281-9233.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Scallop Fishery Management Plan (FMP), established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The Council sets scallop fishery specifications through framework adjustments that occur annually or biennially. The Council adopted Framework 27 on December 3, 2015, and submitted a draft of the framework to NMFS on December 22, 2015, for review and approval. This annual action includes catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2016.

Framework 27 specifies measures for fishing year 2016, and includes fishing year 2017 measures that will go into place as a default should the next specifications-setting framework be delayed beyond the start of fishing year 2017. NMFS will implement Framework 27, if approved, after the start of fishing year 2016; 2016 default measures concerning allocations will

go into place as of March 1, 2016. These default measures are more conservative than the Framework 27 proposed allocations and would be replaced by the higher Framework 27 allocations if this action is approved. The Council has reviewed the Framework 27 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson–Stevens Fishery Conservation and Management Act (MSA). *Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and Set-Asides for the 2016 Fishing Year and Default Specifications for Fishing Year 2017*

The Council set the proposed OFL based on a fishing mortality (F) of 0.48, equivalent to the F threshold updated through the 2014 assessment. The Council bases the proposed ABC and the equivalent total ACL for each fishing year on an F of 0.38, which is the F associated with a 25-percent probability of exceeding the OFL. The Council’s Scientific and Statistical Committee recommended a scallop fishery ABC for both the 2016 and 2017 fishing years of 83.4 million lb (37,852 mt), after accounting for discards and incidental mortality. The Scientific and Statistical Committee will reevaluate an ABC for 2017 when the Council develops the next framework adjustment.

Table 1 outlines the proposed scallop fishery catch limits that are derived from the ABC values. After deducting the incidental target total allowable catch (TAC) and the research set-aside (RSA) and the observer set-aside, the remaining ACL available to the fishery is allocated according to the fleet proportions established in Amendment 11 to the FMP (72 FR 20090; April 14, 2008): 94.5 percent allocated to the limited access (LA) scallop fleet (i.e., the larger “trip boat” fleet); 5 percent allocated to the limited access general category (LAGC) individual fishing

quota (IFQ) fleet (i.e., the smaller “day boat” fleet); and the remaining 0.5 percent allocated to LA scallop vessels that also have LAGC IFQ permits. Amendment 15 to the FMP (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC ACLs, meaning that the LAGC ACL would equal the LAGC ACT. As a result, the LAGC ACL values in Table 1, based on an F of 0.38, represent the amount of catch from which IFQ percentage shares will be applied to calculate each vessel’s IFQ for a given fishing year. For the LA fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated Fs applied to the ABC/ACL, now results in an F of 0.34.

Table 1. Scallop Catch Limits (mt) for fishing years 2016 and 2017 for the LA and LAGC IFQ Fleets.

	2016	2017 (default)
Overfishing Limit	68,418	68,418
Acceptable Biological Catch/ACL (discards removed)	37,852	37,852
Incidental Catch	23	23
Research Set-Aside (RSA)	567	567
Observer Set-Aside	379	379
ACL for fishery	36,884	36,884
LA ACL	34,855	34,855
LAGC ACL	2,029	2,029
LAGC IFQ	1,845	1,845
LA with LAGC IFQ	184	184
LA ACT	18,290	18,290

This action would deduct 1.25 million lb (567 mt) of scallops annually for 2016 and 2017 from the ABC and set it aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. As of March 1, 2016, this set-aside will be available for harvest by RSA-funded projects in open areas.

Framework 27 would allow RSA to be harvested from the Mid-Atlantic Access Area (MAAA) that is proposed to be open for 2016, once this action is approved and implemented, but would prevent RSA harvesting from access areas under 2017 default measures. Of this 1.25 million lb (567 mt) allocation, NMFS has already allocated 3,393 lb (1.5 mt) to previously funded multi-year projects as part of the 2015 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2016 RSA awards and will be selecting projects for funding in the near future.

This action would also set aside 1 percent of the ABC for the industry-funded observer program to help defray the cost of scallop vessels that carry an observer. The observer set-aside for fishing years 2016 and 2017 is 379 mt. The Council may adjust the 2017 observer set-aside when it develops specific, non-default measures for 2017.

Open Area Days-at-Sea (DAS) Allocations

This action would implement vessel-specific DAS allocations for each of the three LA scallop DAS permit categories (i.e., full-time, part-time, and occasional) for 2016 and 2017 (Table 2). Proposed 2016 DAS allocations are higher than those allocated to the LA fleet in 2015 (30.86 DAS for full-time, 12.94 DAS for part-time, and 2.58 DAS for occasional vessels). We project DAS in fishing year 2017 to increase, but Framework 27 would set 2017 DAS allocations equal to fishing year 2016 as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2017 specifications action, if delayed past the start of the 2017 fishing year, estimates that DAS should be less than currently projected. The proposed allocations in Table 2 exclude any DAS deductions that are required if the LA scallop fleet exceeded its 2015 sub-ACL. In addition, these DAS values take into account a 0.14-DAS

reduction necessary to compensate for a measure implemented in Framework Adjustment 26 to the FMP (80 FR 22119; April 21, 2015) that allows vessel to transit to ports south of 39°N Lat. while not on DAS.

Table 2. Scallop Open Area DAS Allocations for 2016 and 2017.

Permit Category	2016	2017
Full-Time	34.55	34.55
Part-Time	13.82	13.82
Occasional	2.88	2.88

On March 1, 2016, full-time, part-time, and occasional vessels will receive 26, 10.40, and 2.17 DAS, respectively. These allocations would increase as soon as we implement Framework 27, if approved.

LA Allocations and Trip Possession Limits for Scallop Access Areas

For fishing year 2016 and the start of 2017, Framework 27 would keep all three Georges Bank Access Areas (i.e., Nantucket Lightship (NLS), Closed Area 1, and Closed Area 2 Access Areas) closed and keep the MAAA open to the LA fleet. This action proposes to close a new area, the Closed Area 2 Extension, to protect small scallops located south of the current Closed Area 2 boundary. The Council will reconsider this proposed closure area in a future framework action when the scallops are larger and ready for harvest.

Table 3 outlines the proposed LA allocations that can be fished from the MAAA, which could be taken in as many trips as needed, so long as the trip possession limits (also in Table 3) are not exceeded. These proposed access area allocations for 2016 are equivalent to access area allocations for 2015.

Table 3. Scallop Access Area Limited Access Vessel Poundage Allocations and Trip Possession Limits for 2016 and 2017.

Permit Category	Possession Limits	2016 Vessel Allocation	2017 Vessel Allocation
Full-Time	17,000 lb (7,711 kg)	51,000 lb (23,133 kg)	17,000 lb (7,711 kg)
Part-Time	10,200 lb (4,627 kg)	20,400 lb (9,253 kg)	10,200 lb (4,627 kg)
Occasional	1,420 lb (644 kg)	4,250 lb (1,928 kg)	1,420 lb (644 kg)

Additional Measures to Reduce Impacts on Scallops

1. Delayed Harvesting of Default 2017 MAAA Allocations. Although the Framework would include precautionary access area allocations for the 2017 fishing year (see 2017 allocations in Table 4), vessels would have to wait to fish these allocations until April 1, 2017. This precautionary measure is designed to protect scallops when scallop meat weights are lower than other times of the year (generally, this change in meat-weight is a physiological change in scallops due to spawning). However, if a vessel has not fully harvested its 2016 scallop access area allocation in fishing year 2016, it may still fish the remainder of its allocation in the first 60 days of 2017 (i.e., March 1, 2017, through April 29, 2017).

2. 2017 RSA Harvest Restrictions. This action proposes that vessels participating in RSA projects would be prohibited from harvesting RSA in access areas under default 2017 measures. At the start of 2017, RSA could only be harvested from open areas. The Council would re-evaluate this measure in the framework action that would set final 2017 specifications.

LAGC Measures

1. *ACL for LAGC vessels with IFQ permits.* For LAGC vessels with IFQ permits, this action proposes a 1,845-mt ACL for 2016 and an initial ACL of 1,845 mt for 2017 (Table 1).

We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. IFQ allocations for each vessel assume that no LAGC IFQ AMs are triggered. The accountability measure (AM) dictates that if a vessel exceeds its IFQ in a given fishing year, its IFQ for the subsequent fishing year is reduced by the amount of the overage.

Because Framework 27 would not go into effect until after the March 1 start of fishing year 2016, the default 2016 IFQ allocations will go into effect. These default 2016 IFQ allocations are lower than those proposed in Framework 27. If approved, this action would increase the current vessel IFQ allocations. NMFS will send a letter to IFQ permit holders providing both March 1, 2016, IFQ allocations and Framework 27 proposed IFQ allocations so that vessel owners know what mid-year adjustments would occur if NMFS approves Framework 27.

2. *ACL for LA Scallop Vessels with IFQ Permits.* For LA scallop vessels with IFQ permits, this action proposes a 184-mt ACL for 2016 and an initial 184-mt ACL for 2017 (Table 1). We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. IFQ allocations for each vessel assume that no LAGC IFQ AMs are triggered. The AM dictates that if a vessel exceeds its IFQ in a given fishing year, its IFQ for the subsequent fishing year would be reduced by the amount of the overage.

3. *LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas.* Framework 27 proposes that LAGC IFQ vessels would receive a fleetwide number of trips in the MAAA and a fleetwide number of trips in the northern portion of the Nantucket Lightship Access Area (NLSN). This action would not grant access to the NLSN to the LA fleet. Under other alternatives in the Framework, all of the LAGC IFQ access area trips were allocated in the

MAAA. However, the Council wanted to provide opportunities for more LAGC vessels throughout the region (North Carolina to Massachusetts) to have access in areas with higher catch rates compared to open areas. Based on the biological and economic projections, both the short and long term impacts of providing LAGC access to the NLSN are similar to keeping the area closed to all vessels. Because LAGC vessels are limited in their range, LAGC vessels homeported in New England may benefit from increased access to scallops in this access area closer to their home ports.

Framework 27 would allocate 2,068 and 602 trips in 2016 and 2017, respectively, to the MAAA. Under default 2017 measures, LAGC IFQ vessels must wait to fish these trips until April 1, 2017. It would also allocate 485 trips to the NLSN for fishing year 2016. The total number of trips (2,553) for fishing year 2016 is equivalent to the overall proportion of total catch from access areas compared to total catch. Framework 27 would not allocate any trips in NLSN for the 2017 fishing year.

4. *NGOM TAC*. This action proposes a 70,000-lb (31,751-kg) annual NGOM TAC for fishing years 2016 and 2017. The allocation for 2016 assumes that there are no overages in 2015, which would trigger a pound-for-pound deduction in 2016 to account for the overage.

5. *Scallop Incidental Catch Target TAC*. This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2016 and 2017 to account for mortality from this component of the fishery, and to ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

Regulatory Corrections Under Regional Administrator Authority

This proposed rule includes several revisions to the regulatory text to address text that is unnecessary, outdated, unclear, or NMFS could otherwise improve. NMFS proposes these changes consistent with section 305(d) of the MSA which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the MSA. The first revision, at § 648.14(i)(2)(ii)(B)(7), would clarify that the crew member restrictions, specified in § 648.51(c) and § 648.51(e)(3)(i), apply in all access areas. The second revision, at § 648.14(i)(3)(v)(C), would clarify that LAGC IFQ vessels must be declared into the Sea Scallop Access Area Program if they fish for, possess, or land scallops in or from any Sea Scallop Access Area. The third revision, at § 648.51(e)(2), clarifies that vessels participating in the small dredge program may carry component parts on board the vessel such that they do not conform with the definition of “dredge or dredge gear.” The fourth revision, at § 648.52(f), clarifies that LAGC IFQ vessels are permitted to possess no more than 75 bu (26.4 hL) of in-shell scallops outside of the Access Areas. Finally, the fifth revision, at § 648.60(g)(2), clarifies that IFQ LAGC vessels may fish with trawl gear in the MAAA.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the FMP, other provisions of the MSA, and other applicable law. In making the final determination, NMFS will consider the data, views, and comments received during the public comment period.

This proposed rule does not contain policies with federalism implications under Executive Order 13132.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA has been prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 27 analyses, the draft IRFA, and the preamble to this action.

Description of the Reasons Why Action by the Agency is Being Considered and Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for 2016, with 2017 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 27 and the preamble of this proposed rule and are not repeated here.

Description of Projected Reporting, Recordkeeping, and other Compliance Requirements of the Proposed Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

Federal Rules which may Duplicate, Overlap or Conflict with this Proposed Rule

The proposed regulations do not create overlapping regulations with any state regulations or other federal laws.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed regulations would affect all vessels with LA and LAGC scallop permits. The Framework 27 decision draft provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and

state (see **ADDRESSES**). There were 313 vessels that obtained full-time LA permits in 2014, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time LA permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 220 LAGC IFQ permits in 2014 and 128 of these vessels actively fished for scallops that year (the remaining permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History). The RFA defines a small business in shellfish fishery as a firm that is independently owned and operated and not dominant in its field of operation, with receipts of up to \$5.5 million annually. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal and business affiliations. For the purposes of this analysis, “ownership entities” are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an “ownership entity.” For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one “ownership entity,” that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate “ownership entity” for the purpose of this analysis.

Ownership data from 2014 result in 166 distinct ownership entities for the LA fleet and 106 distinct ownership entities for the LAGC IFQ fleet. Of these, and based on the Small Business Administration (SBA) guidelines, 152 of the LA distinct ownership entities and 102 of

the LAGC IFQ entities are categorized as small. The remaining 14 of the LA and 4 of the LAGC IFQ entities are categorized as large entities, all of which are shellfish businesses.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The proposed alternative would allocate each full-time LA vessel 34.55 open area DAS and a 51,000 lb (23,133 kg) allocation in the MAAA. The LAGC IFQ ACL is 4,473,180 lb (2,029 mt) and this fleet is allocated access area trips in the MAAA and NLSN which would be open to LAGC vessels only. NMFS expects that this alternative would positively impact profitability of small entities regulated by this action in 2016. NMFS expects the estimated revenues and net revenue for scallop vessels and small business entities would be higher under all considered allocations alternatives, including the preferred alternative, than under the No Action alternative (i.e., 2016 default measures conservatively set through Framework 26).

Framework 27 includes five allocation alternatives including the “No Action” alternative. The preferred alternative (Alternative 3A) would have about 43 percent higher benefits compared to the No Action which would translate to higher profits. However, it would have lower revenue compared to other alternatives in the 2016 fishing year (Table 4).

Alternative 2 would set target catches using the three principles developed as part of the “hybrid” overfishing definition approved in Amendment 15, and not include additional closures or modifications to boundaries of the overall area rotation program. Each full-time LA vessel would be allocated 36.53 DAS for the open areas and a 51,000 lb (23,133 kg) allocation in the MAAA and Closed Area 2 (one access area per trip; split trips for the fleet).

Under Alternative 3 each full-time vessel would be allocated 34.55 DAS and 51,000 lb (23,133 kg) to MAAA and Closed Area 2 (one access area per trip; split trips for the fleet).

However, a new area south of Closed Area 2 would be closed to fishing to protect the small scallops. Preferred Alternative 3A is similar to Alternative 3, except LA vessels would not be allocated trips in Closed Area 2. Instead, those trips would be shifted to MAAA with the existing Elephant Trunk Closed Area closed, Closed Area 1 and Closed Area 2 access areas closed, and NLSN open to LAGC vessels only. Similar to the other alternatives, each full-time LA vessel would be allocated 51,000 lb (23,133 kg) in MAAA.

Alternative 4 would extend the boundaries of the existing Elephant Trunk Closed Area which was closed to fishing in 2015 to protect small scallops, but open area DAS and access area allocations would be similar to Alternative 2.

Allocations for Alternative 5 would be similar to the allocations for Alternative 2; however, in addition to the MAAA and Closed Area 2, this alternative would also provide a limited amount of effort, for both the LA and the LAGC fleets, to a portion of the NLSN expected to have lower densities of small scallops.

Table 4 - Estimated fleet revenue and revenue per limited access vessel in 2015 dollars

Alternatives	Total Revenue	Revenue per FT vessel	% Change from No Action
ALT1. No Action	379.3	1,081,573	
ALT2. Basic Run	555.5	1,585,671	47%
ALT3. CA2 ext.	540.5	1,542,766	43%
ALT3A. CA2 ext.	538.7	1,537,502	42%
ALT4. ETA ext.	557.6	1,591,545	47%
ALT5. NLS Acc.	557.1	1,590,136	47%

As for LAGC IFQ access area allocations, the preferred alternative (Option 2) would provide proportional access for LA and LAGC IFQ for the access areas. The number of trips would be based on the total proportion of catch from access areas compared to open areas (34 percent for 2,553 trips). Thus, it would allocate about 1.5 million lb (680 mt) of the total LAGC allocation of 4.4 million lb (1996 mt) from access areas, while about 3 million lb would still be left of the LAGC quota to be harvested in open areas. Preferred area option (option 3) would allocate about 19 percent of these trips (or 300,000 lb (136 mt)) to the NLSN which is open to LAGC vessels only. Because of the proximity of the LAGC vessels which are smaller in size and homeported in Massachusetts to NLSN, this option will reduce fishing costs and have positive impacts on their profits. Therefore, preferred alternative for LAGC access area allocations would have highest economic benefits compared to both No Action allocations and other options that allocate a smaller percentage of access area trips to the LAGC fishery.

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 17, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraphs (i)(2)(ii)(B)(7) and (i)(3)(v)(B) are revised, and paragraph (i)(3)(v)(C) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(2) * * *

(ii) * * *

(B) * * *

(7) Fish in a Sea Scallop Access Area, as described in §648.59, with more persons on board the vessel than the number specified in §648.51(c) or §648.51(e)(3)(i), unless otherwise authorized by the Regional Administrator.

* * * * *

(3) * * *

(v) * * *

(B) Declare into or leave port for an area specified in § 648.59(a) through (d) after the effective date of a notification published in the **FEDERAL REGISTER** stating that the number of LAGC trips have been taken, as specified in § 648.60.

(C) Fish for, possess, or land scallops in or from any Sea Scallop Access Area specified at § 648.59, unless declared into the Sea Scallop Access Area Program.

* * * * *

3. In § 648.51, paragraph (e)(2) is revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(e) * * *

(2) The vessel may not use or have more than one dredge on board. However, component parts may be on board the vessel such that they do not conform with the definition of “dredge or dredge gear” in § 648.2, i.e., the metal ring bag and the mouth frame, or bail, of the dredge are not attached, and no more than one complete spare dredge could be made from these component's parts.

* * * * *

4. In § 648.52, paragraph (f) is revised to read as follows:

§ 648.52 Possession and landing limits.

* * * * *

(f) A limited access vessel or an LAGC vessel that is declared into the Sea Scallop Area Access Program as described in §648.60, may not possess more than 50 bu (17.6 hL) or 75 bu

(26.4 hL), respectively, of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

* * * * *

5. In § 648.53, paragraphs (a), (b)(1), (b)(4), and (g)(1) are revised, and paragraph (h)(5)(iv)(D) is removed to read as follows:

§ 648.53 Acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), DAS allocations, and individual fishing quotas (IFQ).

(a) *Scallop fishery ABC.* The ABC for the scallop fishery shall be established through the framework adjustment process specified in §648.55 and is equal to the overall scallop fishery ACL minus discards. The ABC/ACL, after discards are removed, shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as specified in paragraphs (a)(3) and (4) of this section, after deducting the scallop incidental catch target TAC specified in paragraph (a)(2) of this section, observer set-aside specified in paragraph (g)(1) of this section, and research set-aside specified in § 648.56(d). The ABC/ACL for the 2017 fishing year is subject to change through a future framework adjustment.

(1) ABC/ACL for fishing years 2016 through 2017, excluding discards, shall be:

(i) 2016: 37,852 mt.

(ii) 2017: 37,852 mt.

(2) *Scallop incidental catch target TAC.* The annual incidental catch target TAC for vessels with incidental catch scallop permits is 22.7 mt.

(3) *Limited access fleet sub-ACL and ACT.* The limited access scallop fishery shall be allocated 94.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting

incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(3).

ACT for the limited access scallop fishery shall be established through the framework adjustment process described in §648.55. DAS specified in paragraph (b) of this section shall be based on the ACTs specified in paragraph (a)(3)(ii) of this section. The limited access fleet sub-ACL and ACT for the 2017 fishing year are subject to change through a future framework adjustment.

(i) The limited access fishery sub-ACLs for fishing years 2016 and 2017 are:

(A) 2016: 36,884 mt.

(B) 2017: 36,884 mt.

(ii) The limited access fishery ACTs for fishing years 2016 and 2017 are:

(A) 2016: 18,290 mt.

(B) 2017: 18,290 mt.

(4) *LAGC fleet sub-ACL*. The sub-ACL for the LAGC IFQ fishery shall be equal to 5.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4). The LAGC IFQ fishery ACT shall be equal to the LAGC IFQ fishery's ACL. The ACL for the LAGC IFQ fishery for vessels issued only a LAGC IFQ scallop permit shall be equal to 5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4). The ACL for the LAGC IFQ fishery for vessels issued only both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the ACL specified in paragraph (a)(1) of this section, after

deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4).

(i) The ACLs for fishing years 2016 and 2017 for LAGC IFQ vessels without a limited access scallop permit are:

(A) 2016: 1,845 mt.

(B) 2017: 1,845 mt.

(ii) The ACLs for fishing years 2016 and 2017 for vessels issued both a LAGC and a limited access scallop permits are:

(A) 2016: 184 mt.

(B) 2017: 184 mt.

(b) * * *

(1) *Landings per unit effort (LPUE)*. LPUE is an estimate of the average amount of scallops, in pounds, that the limited access scallop fleet lands per DAS fished. The estimated LPUE is the average LPUE for all limited access scallop vessels fishing under DAS, and shall be used to calculate DAS specified in paragraph (b)(4) of this section, the DAS reduction for the AM specified in paragraph (b)(4)(ii) of this section, and the observer set-aside DAS allocation specified in paragraph (g)(1) of this section. LPUE shall be:

(i) 2016 fishing year: 2,316 lb/DAS (1.051 kg/DAS).

(ii) 2017 fishing year: 2,690 lb/DAS (1,220 kg/DAS).

(iii) [Reserved]

* * * * *

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (full-time, part-time, or occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category, excluding carryover DAS in accordance with paragraph (d) of this section. DAS allocations shall be determined by distributing the portion of ACT specified in paragraph (a)(3)(ii) of this section, as reduced by access area allocations specified in § 648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area LPUE specified in paragraph (b)(1) of this section. Allocation for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively. The annual open area DAS allocations for each category of vessel for the fishing years indicated are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2016	2017
Full-Time	34.55	34.55
Part-Time	13.82	13.82
Occasional	2.88	2.88

* * * * *

(g) * * *

(1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL specified in paragraph (a)(1) of this section shall be set aside to be used by vessels that are assigned to take

an at-sea observer on a trip. The total TAC for observer set aside is 379 mt in fishing year 2016, and 379 mt in fishing year 2017.

* * * * *

6. In § 648.58 paragraphs (b), (c), and (e) are revised to read as follows:

§ 648.58 Rotational Closed Areas.

* * * * *

(b) *Closed Area II*—(1) *Closed Area II Closed Area*. No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area II Closed Area. No vessel may possess scallops in the Closed Area II Closed Area. The Closed Area II Closed Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude	Note
CAIIA1	41°00' N.	67°20' W.	
CAIIA2	41°00' N.	66°35.8' W.	
CAIIA3	41°18.45' N.	(¹)	(²)
CAIIA4	41°30' N.	(³)	(²)
CAIIA5	41°30' N.	67°20' W.	
CAIIA1	41°00' N.	67°20' W.	

¹The intersection of 41°18.45' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N. lat. and 66°24.89' W. long.

²From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada Maritime Boundary.

³The intersection of 41°30' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N. lat., 66°34.73' W. long.

(2) *Closed Area II Extension Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area II Extension Closed Area. No vessel may possess scallops in the Closed Area II Extension Closed Area. The Closed Area II Extension Closed Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude	Note
CAIIE1	40°30'N	67°20' W.	
CAIIE2	41°00' N.	67°20' W.	
CAIIE3	41°00' N.	66°35.8' W.	
CAIIE4	41°18.45' N.	(¹)	(²)
CAIIE5	40°30' N.	(³)	(²)
CAIIE1	40°30'N	67°20' W.	

¹The intersection of 41°18.45' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N. lat. and 66°24.89' W. long.

²From Point CAIIE4 to Point CAIIE5 following the U.S.-Canada Maritime Boundary.

³The intersection of 40°30' N. lat. and the U.S.-Canada Maritime Boundary, approximately, 65°44.34'W. long.

(c) *Nantucket Lightship Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Nantucket Lightship Closed Area. No vessel may possess scallops in the Nantucket Lightship Closed Area, unless such vessel is an IFQ LAGC vessel participating in, and complying with the requirements of, the IFQ LAGC area access program described in § 648.60(g)(3), or the vessel is only transiting the area as provided in paragraph (e) of this section. The Nantucket Lightship Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request),

Point	Latitude	Longitude
NLAA1	40°50' N.	69°30' W.
NLAA2	40°50' N.	69°00' W.
NLAA3	40°33' N.	69°00' W
NLAA4	40°33' N.	68°48' W
NLAA5	40°20' N.	68°48' W
NLAA6	40°20' N.	69°30' W.
NLAA1	40°50' N.	69°30' W.

* * * * *

(e) *Transiting*. No vessel possessing scallops may enter or be in the area(s) specified in paragraphs (a) and (c) of this section unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Closed Area or the Closed Area II Extension Closed Area, as described in paragraph (b) of this section, or the Elephant Trunk Closed Area, as described in paragraph (d) of this section, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

7. In § 648.59, paragraphs (a)(1), (b)(1), (c)(1), and (d)(1) are revised and paragraph (a)(2)(i) is removed and reserved to read as follows:

§ 648.59 Sea Scallop Access Areas.

(a) * * *

(1) Beginning March 1, 2016, through February 28, 2018 (i.e., fishing years 2016 and 2017), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Mid-Atlantic Access Area unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60 or the vessel is transiting pursuant to paragraph (f) of this section. The Mid-Atlantic Access Area is comprised of the following scallop access areas: The Delmarva Scallop Access Area, as described in paragraph (a)(2) of this section; the Elephant Trunk Scallop Access Area, as described in paragraph (a)(3) of this section; and the Hudson Canyon Scallop Access Area, as described in paragraph (a)(4) of this section.

(2) * * *

(i) [Reserved]

* * * * *

(b) * * *

(1) From March 1, 2016, through February 28, 2018 (i.e., fishing years 2016 and 2017), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Scallop Access Area, described in paragraph (b)(3) of this section, unless transiting in accordance with paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (b)(5)(ii)(C) of this section.

* * * * *

(c) * * *

(1) From March 1, 2016, through February 28, 2018 (i.e., fishing years 2016 and 2017), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section, unless transiting in accordance with paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (c)(5)(ii)(C) of this section.

* * * * *

(d) * * *

(1) From March 1, 2016, through February 28, 2018 (i.e., fishing years 2016 and 2017), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless the vessel is an IFQ LAGC vessel participating in, and complying with the requirements of, the IFQ LAGC area access program described in § 648.60(g)(3), or the vessel is transiting pursuant to paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (d)(5)(ii)(C) of this section.

* * * * *

8. In § 648.60, paragraphs (a)(3)(i), (a)(5)(i), (c), (e), (g) introductory text and (g)(3) are revised to read as follows:

§ 648.60 Sea scallop access area program requirements.

(a) * * *

(3) *Sea Scallop Access Area Allocations*—(i) *Limited access vessel allocations*. (A)

Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (D) of this section specify the total amount of scallops, in weight, that a limited access scallop vessel may harvest from Sea Scallop Access Areas during applicable seasons specified in § 648.59. A vessel may not possess or land in excess of its scallop allocation assigned to specific Sea Scallop Access Areas, unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, unless the vessel owner has exchanged an area-specific scallop allocation with another vessel owner for additional scallop allocation in that area, as specified in paragraph (a)(3)(ii) of this section. A vessel may harvest its scallop allocation, as specified in paragraph (a)(3)(i)(B) of this section, on any number of trips in a given fishing year, provided that no single trip exceeds the possession limits specified in paragraph (a)(5) of this section, unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section,

(B) *Full-time scallop vessels*. (1) In fishing year 2016, each full-time vessel shall have a total of 51,000 lb (23,133 kg) of scallops that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2017 fishing year, each full-time vessel shall have a total of 17,000 lb (7,711 kg) of scallops that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2017.

(C) *Part-time scallop vessels*. (1) For the 2016 fishing year, each part-time scallop vessel shall have a total of 20,400 lb (9,253 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2016 fishing year, each part-time scallop vessel shall have a total of 10,200 lb (4,627 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2017.

(D) *Occasional scallop vessels.* (1) For the 2016 fishing year, each occasional scallop vessel shall have a total of 4,250 lb (1,928 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2017 fishing year, each occasional scallop vessel shall have a total of 1,420 lb (644 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2017.

* * * * *

(5) *Possession and landing limits—(i) Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel declared into the Access Areas as described in § 648.59(a) through (e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

Fishing year	Permit category possession limit		
	Full-time	Part-time	Occasional
2016	17,000 lb (57,711 kg)	10,200 lb (4,627 kg)	1,420 lb (644 kg).
2017	17,000 lb (57,711 kg)	10,200 lb (4,627 kg)	1,420 lb (644 kg).

* * * * *

(c) *Access area scallop allocation carryover.* Unless otherwise specified in § 648.59, a limited access scallop vessel operator may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Access Area is open. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2016, that vessel may harvest 7,000 lb (3,175 kg) from its 2017 fishing year scallop access area allocation during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2017 (March 1, 2017, through April 29, 2018). Unless otherwise specified in § 648.59, if an Access Area is not open in the subsequent fishing year, then the unharvested scallop allocation would expire at the end of the fishing year that the scallops were allocated.

* * * * *

(e) *Sea Scallop Research Set-Aside Harvest in Access Areas—(1) Access Areas available for harvest of research set-aside (RSA).* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2016 and 2017 are:

- (i) 2016: The Mid-Atlantic Scallop Access Area, as specified in § 648.59(a).
- (ii) 2017: None.
- (2) [Reserved]

* * * * *

(g) *Limited Access General Category Gear restrictions.* An LAGC IFQ scallop vessel authorized to fish in the Access Areas specified in § 648.59(b) through (e) must fish with dredge gear only. The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in Closed Area I, Closed Area II, and Nantucket Lightship Access Areas may not exceed 10.5 ft (3.2 m). The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the remaining Access Areas described in § 648.59 may not exceed 31 ft (9.4 m). Dredge width is measured at the widest point in the bail of the dredge.

* * * * *

(3) *LAGC IFQ Access Area Trips.* (i) An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) or in (g)(3)(iv) of this section may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips have been or are projected to be taken. The total number of LAGC IFQ trips in a specified Access Area for fishing year 2016 and 2017 are:

Access area	2016	2017
Mid-Atlantic Access Area	2,068	602
Closed Area 1	0	0
Closed Area 2	0	0

Nantucket Lightship	0	0
Nantucket Lightship North	485	0

(ii) Scallops landed by each LAGC IFQ vessel on an access area trip shall count against the vessel's IFQ.

(iii) Upon a determination from the Regional Administrator that the total number of LAGC IFQ trips in a specified Access Area have been or are projected to be taken, the Regional Administrator shall publish notification of this determination in the **FEDERAL REGISTER**, in accordance with the Administrative Procedure Act. Once this determination has been made, an LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the specified Access Area after the effective date of the notification published in the **FEDERAL REGISTER**.

(iv) *Nantucket Lightship North Sea Scallop Access Area.* (A) From March 1, 2016, through February 28, 2018 (i.e., fishing years 2016 and 2017), a vessel issued an LAGC IFQ scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship North Access Area, described in paragraph (g)(3)(iv)(B) of this section, unless the vessel is participating in, and complying with the requirements of, the area access program described in this section or the vessel is transiting pursuant to § 648.59 (f). A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (d)(5)(ii)(C) of this section.

(B) The Nantucket Lightship North Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLNAA1	40°50' N.	69°00' W.
NLNAA2	40°30' N.	69°00' W.
NLNAA3	40°30' N.	69°30' W.
NLNAA4	40°50' N.	69°30' W.
NLNAA1	40°50' N.	69°00' W.

* * * * *

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